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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/661,795	09/12/2003	Kenneth Peter Bowman	16-19-101	8351

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EXAMINER

KATCHEVES, BASIL S

ART UNIT PAPER NUMBER

3635

DATE MAILED: 01/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/661,795

Applicant(s)

BOWMAN, KENNETH PETER

Examiner

Basil Katcheves

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 12 September 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2 and 4-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 2,697,932 to Goodwin in view of U.S. Patent No. 5,802,785 to Crook.

Regarding claims 1 and 7, Goodwin discloses a method of finishing an opening by inserting a shim plate (16) with a top sill portion plate and frontal flange located between a framing member (12) and the periphery of a framing insert (32). Goodwin also discloses positioning a finishing material (38) on top of the sill and fastening it to the framing member (12) by use of a fastener (40) extending through the shim plate. However, Goodwin does not disclose a foaming material injected between the frame member and shim plate. Crook discloses a foaming insulation for window frames (72) between the sill (20) and framing member (66). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Goodwin by adding a foaming insulation below the shim plate, as disclosed by Crook, in order to better insulate the window frame.

Regarding claim 2, Goodwin discloses the sill portion as inserted into a slot of the framed member (16 & 32).

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Regarding claim 3, Goodwin in view of Crook discloses the use of plastic for the shim plate (Crook, column 6, lines 34-36). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Goodwin by using plastic for the shim plate, as disclosed by Crook, in order to save weight and resist corrosion when a lighter insert is used.

Regarding claim 5, Goodwin in view of Crook discloses a foaming insulation, but does not specifically claim the foam as being low-expansion. However, it would be obvious to one in the art to use a low-expansion foam in a situation that required a small area to be filled, rather than a high-expansion foam which would be needed to fill a large space. In this situation, there is a small area below the shim plate of Goodwin and of Crook and therefore it would have been obvious to use a low-expansion foam.

Regarding claim 6, Goodwin discloses the sill portion as being perpendicular to the insert and the end portion of the sill as being in contact with the periphery of the framed member (fig. 3: 36).

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 2,697,932 to Goodwin in view of U.S. Patent No. 5,802,785 to Crook further in view of U.S Patent No. 2,800,956 to Xanten.

Regarding claim 3, Goodwin in view of Crook do not disclose the use of a steel L shaped sash. Xanten discloses the use of a steel L shaped sash (line 31, fig. 1: 15). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Goodwin in view of Crook, by using steel for the sash, as steel is

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known in the art to be stronger than aluminum and may be used in situations using heavier inserts.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The cited patents listed on the included form PTO-892 further show the state of the art with respect to frame inserts in general.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Basil Katcheves whose telephone number is (703) 306-0232. The examiner can normally be reached on Monday-Friday from 7:30 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman, can be reached at (703) 308-0832.

BK

  
Basil Katcheves

1/25/05

Examiner AU 3635